

REMARKS

In the Restriction Requirement mailed October 10, 2006, the Examiner has restricted the claims to one of the following inventions under 35 U.S.C. 121:

- I. Claims 1-29, 41-46, drawn to a method of cleaning a semiconductor surface; and
- II. Claims 30-40, 47-50, drawn to forming different devices

Applicant elects, without traverse, Group I, claims 1-29 and 41-46. Applicant respectfully cancels claims 30-40, and 47-50 (Group II) without prejudice or disclaimer, and reserves the right to reintroduce them in one or more Divisional applications at a later date.

The Restriction Requirement further restricted the following species of Group I:

- a. species of supercritical fluid, as per claims 2, 3, 4
- b. species of carrier fluid as per claims 5, 6, 12, 13, 18, 19, 28, 29
- c. species of mechanical energy as per claims 7, 8, 14, 15, 20, 21
- d. species of halogenated hydrocarbon fluid as per claims 44, 45

Applicant provisionally elects, *with traverse*, group (a) including claims 1-4, 9-11, 16-17, 22-23, 26-27, and 41-42. Applicant requests examination of all other species upon allowance of a generic claim. It is noted that the Restriction Requirement states that claims 1, 11, 16, 22, 26, 30, 36, and 41 are generic. As noted in the Restriction Requirement, upon allowance of a generic claim, the remaining species will be entitled to examination as provided by 37 CFR 1.141.

Grounds for Traversal

The Office Action asserts that Groups (a.) – (d.) represent patentably distinct species. Without specifically addressing this contention, Applicant notes that more is required for a proper restriction based on distinct species. The MPEP requires that “Examiners must provide reasons and/or examples to support conclusions.” *See* MPEP § 803. In the present case,

however, the Restriction Requirement fails to set forth or explain which characteristics of Groups (a.) – (d.) render such selections patentably distinct. The Restriction Requirement states that, “the species in each group (a) – (d) are independent or distinct because they represent functionally different chemical compounds or different types of mechanical action.” Applicant respectfully submits that the present Restriction Requirement merely points out differences in claim text, rather than providing reasons that claims are *patentably* distinct as expressly required by the MPEP.

The MPEP also requires that, for purposes of the initial requirement, a serious burden on the Examiner may be *prima facie* shown “by appropriate explanation of separate classification, or separate status in the art, or a different field of search.” *See id.* Because the Restriction Requirement fails to establish the basic characteristics upon which the restriction rests, it also necessarily fails to provide any requisite explanation of separate classification, separate status in the art, or different field of search required to support the Examiner’s *prima facie* burden. Therefore, Applicant respectfully submits that the Restriction Requirement has failed to establish any serious burden of searching and examining all of Groups (a.) – (d.) together. Accordingly, Applicant respectfully requests withdrawal of the species restriction and examination of all of claims 1-29 and 41-46.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6944 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 9 day of November 2006.



Name



Signature